

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

PRINCE MCCOY SR.,  
PLAINTIFF,

United States Courts  
Southern District of Texas  
FILED

CIVIL ACTION  
No. 23:17-CV-235

V

AUG 19 2022

Nathan Ochsner, Clerk of Court

Mr. Alamu,  
DEFENDANT,

PLAINTIFF PRINCE MCCOY'S MEMORANDUM  
IN SUPPORT OF MOTION FOR CONTINUANCE

Plaintiff Prince McCoy asks the Court to continue this case for at least fourteen (14) to allow time to conduct discovery.

INTRODUCTION

1. Plaintiff is Prince McCoy Sr.; Defendant is Mr. Alamu.
2. Plaintiff sued defendant for unnecessary/excessive use of force.
3. The deadline for defendant to produce discovery requests to plaintiff has passed.
4. This case is set for trial on August 22, 2022.
5. Plaintiff Prince McCoy asks the Court to extend the trial setting until after the produces plaintiff's discovery requests.

ARGUMENT

6. A court has the discretion to grant a motion for continuance as part of its inherent power to control its own docket to ensure that cases proceed before it in a timely and orderly manner. see, *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43-44 (1991); *Daniel J. Hartwig Assocs., Inc. v. Kanner*, 913 F.2d 1213, 1222 (7th Cir. 1990).
7. Plaintiff Prince McCoy needs additional time to secure the requested tangible things and records he requested over 90 days ago from the defendant. McCoy filed a Motion to Compel on July 29, 2022, asking the Court to order the defendant to send McCoy the records and tangible things McCoy requested. see, *Manendez v. Persihable Distribs., Inc.*, 763 F.2d 1374, 1379-80 (11th Cir. 1985).
8. The requested discovery is relevant and material to this case because McCoy needs the requested documents and tangible things to prove his burden of proof that Alamu's

actions were done maliciously and sadistically with the intent to cause harm to McCoy in violation of McCoy's Constitutional rights. And to serve the interest of Justice. see, Perkins v. Am. Elec. Power Fuel Supply, Inc., 246 F.3d 593, 605 (6th Cir. 2001). Although plaintiff diligently used the discovery process, he was unable to secure the requested materials earlier due to defendant Alamu's noncompliance. And the Court not ruling on the plaintiff's Motion to Compel yet.

9. Plaintiff Prince McCoy cannot produce this information from any other source.

10. This request for continuance is not merely for delay, but so that justice may be done.

11. This request for continuance will not prejudice defendant Alamu because it is the defendant Alamu's fault that this motion for continuance is filed due to Alamu's refusal to produce the requested records and tangibles things Alamu is required to produce to produce according to Fed. R. Civ. P. 26(a) and 37(a)(1). see, Menendez, 763 F.2d at 1379-80.

12. Plaintiff Prince McCoy will suffer actual and substantial prejudice if this request for continuance is not granted because McCoy will be denied Justice and his constitutional rights will be violated. see, Martel v. Cty. of L.A., 56 F.3d 993, 995 (9th Cir. 1995).

13. This request for continuance will not unduly inconvenience the Court because the Court's scheduling can be rearranged to eliminate or minimize the inconvenience. see, Fowler v. Jones 899 F.2d 1088, 1094 (11th Cir. 1990). ]

#### CONCLUSION

For these reasons listed above plaintiff Prince McCoy asks the Court to continue this case for at least (14) fourteen days until after the defendant complies with the production of records and tangible things McCoy requested.

#### ORDER

It is therefore ORDERED that plaintiff Prince McCoy's Motion for Continuance is therefore GRANTED and trial is set for 14 days after defendant Alamu produces the requested records and tangible things to plaintiff Prince McCoy.

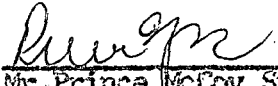
\_\_\_\_\_  
DATE

\_\_\_\_\_  
HONORABLE JUDGE

#### CERTIFICATE OF SERVICE

I, plaintiff Prince McCoy hereby certify that a true and correct copy of the foregoing Motion for Continuance has been filed to the following on August 12, 2022.

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LEGAL MAIL

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